

Roskowski v. Corvallis Police Officers' Ass'n, 05-35737

OCT 10 2007

GRABER, J., concurring in part and dissenting in part.

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

I respectfully part company with my colleagues as to Paragraphs 1 and 2. I would hold that two statements of fact (that Plaintiff made studies disappear and that she selected a records system against the recommendation of the committee) were actionable. Plaintiff's affidavit and attached documents, along with evidence of personal animosity on the part of some of Defendants' leaders, suffice to permit a finder of fact to conclude that those two statements were false, that Defendants acted with actual malice, and that the other elements of the claims for libel and false light are established. Accordingly, in my view, summary judgment was improper with respect to those two statements and those two claims.

As to the remaining allegations of libel and false light, and as to the remaining claims, I agree that summary judgment against Plaintiff was proper. Therefore, I concur in part and dissent in part.